

REMARKS

I. Introduction

This paper is filed in response to the final Office Action mailed March 31, 2008. A Request for Continued Examination is filed concurrently herewith. Claims 1 and 26 are amended. Claims 5 and 27 are cancelled. Claim 28 is added. After entry of the present amendments, claims 1-4, 6, 23, 26, and 28 are pending. An example of support for the amendments to claim 1 can be found in the specification at Figure 3 and page 21, line 25 – page 22, line 15. An example of support for the amendments to claim 26 can be found in the specification at page 22, lines 16-30. An example of support for new claim 28 can be found in the specification at page 19, lines 9-20.

Assignee traverses each of the rejections. Reconsideration and allowance of all pending claims is respectfully requested in view of the remarks below.

II. Rejection of Claims 26 and 27 under 35 U.S.C. § 112, 2nd Paragraph

The Office Action rejected claims 26 and 27 under 35 U.S.C. § 112, 2nd paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter. Specifically, the Office Action stated the term “consumer inquiry” is unclear as “[c]laim 1 already states that the inquiry is for credit history data relating to the consumer and therefore appears to be a consumer inquiry already stated in claim 1.” Although Assignee respectfully disagrees that “consumer inquiry” is unclear or otherwise indefinite, claim 26 is amended to recite “wherein the inquiry is a consumer inquiry that does not count against the credit score.” As stated in the specification, the inquiry in claim 1 relates to the consumer and can be a consumer inquiry or other type of inquiry, such as a merchant inquiry or a promotional inquiry. *See, e.g.*, Specification, page 22,

lines 16-30. Some types of inquiries count against the credit score of the consumer; some do not. *See, e.g., Id.* Accordingly, Assignee submits that claim 26 is patentable under 35 U.S.C. § 112, 2nd paragraph. Withdrawal of the rejection is kindly requested.

III. Rejection of claim 1-6, 23 and 26-27 under 35 U.S.C. § 103(a)

The Office Action rejected claims 1-6, 23, and 26-27 under 35 U.S.C. § 103(a) over the combination of U.S. Patent No. 6,405,181 to Lent *et al.*, U.S. Patent No. 6,311,169 to Duhon and “A Home Remedy for Bad Credit” (hereinafter “CCM”). As an initial matter, claims 5 and 27 are cancelled. As explained below, since the combination fails to disclose or suggest each claimed element in claims 1-4, 6, 23, and 26, as is required to reject claims under Section 103(a), the Assignee respectfully traverses this rejection. *See* M.P.E.P. § 2143.03.

- A. An explanatory statement suggesting at least one step to improve the credit score, wherein the at least one step to improve the credit score is based on the credit history data

The combination of cited references fail to disclose or suggest “an explanatory statement suggesting at least one step to improve the credit score, wherein the at least one step to improve the credit score is based on the credit history data,” as recited in claim 1. The Office Action contends CCM discloses this element. Specifically, the Office Action asserts that CCM “states that instructions are provided to users based on the fact that the user has a poor credit record.” Nowhere in the article does it state that instructions are provided to users “based on the fact that the user has a poor credit record.” Although consumers with poor credit records may be a targeted customer group for the software, CCM does not disclose providing instructions based on the consumer’s particular credit report. Instead, consumers (with “poor” credit records or not) purchase the software and

obtain instructions on how to work with credit bureaus to remove questionable black marks to “demonstrate to the credit bureau how they have attempted to correct their delinquencies by showing compliance with an issuer’s payment policies.” *See* CCM, at ¶¶ 3 and 4. CCM provides no support for providing instructions based on the user’s particular credit record, even if consumers with poor credit records purchase the software. CCM does not describe the software receiving a credit report and determining instructions to provide based on the credit report. Instead, the software provides consumers with step-by-step instructions on how to send letters to credit bureaus, without indicating whether the credit report is received or even used. *See, e.g.,* CCM, ¶¶ 2 and 3.

The Assignee respectfully submits that the Office Action’s interpretation of CCM incorrectly assumes the described software provides instructions based on a consumer’s credit history when CCM provides no such support or suggestion. Since the Office Action relies on CCM to disclose or suggest “an explanatory statement suggesting at least one step to improve the credit score, wherein the at least one step to improve the credit score is based on the credit history data,” when CCM fails to disclose or suggest such element, the combination of Lent, Duhon, and CCM fail to disclose or suggest each element recited in claims 1-4, 6, 23, and 26. Allowance of the pending claims is kindly requested.

- B. Receiving a consumer-related record via a network, the consumer-related record being associated with the consumer and received from a source other than the credit bureau and generating a summary report ... based on the credit history data and the consumer-related record

The combination of Lent, Duhon, and CCM also fails to disclose or suggest other elements recited in claims 1-4, 6, 23, and 26. For example, claim 1 is amended to recite, “receiving a consumer-related record via a network, the consumer-related record being associated with the consumer and received from a source other than the credit bureau” and “generating a summary report ... based on the credit history data and the consumer-related record.” The Office Action appears to have cited Lent at column 13, lines 28-46 as generally disclosing generating a credit score based on credit history data and consumer-related records associated with a consumer and received from databases. *See, e.g.,* Office Action page 7.

Lent, however, discloses using a FICO score, income, balance transfer requirement, and information from a credit report or the applicant as selection criteria. *See* Lent, Col. 13, lines 28-34. The selection criteria is used to estimate the applicant’s risk of default and expected future total revolving balance to determine terms of an offer. *See id.* at lines 34-40. Instead of a credit score to provide to consumers, Lent determines offer selection criteria to determine terms of an offer to provide an applicant. Furthermore, neither Duhon nor CCM disclose or suggest this claimed element. Since the cited references fail to disclose or suggest “receiving a consumer-related record via a network, the consumer-related record being associated with the consumer and received from a source other than the credit bureau” and “generating a summary report ... based on the credit history data and the consumer-related record,” the combination fails to disclose or suggest each element recited in claims 1-4, 6, 23, and 26. Allowance of the pending claims is kindly requested.

C. Claim 26

The combination fails to disclose or suggest “wherein the inquiry is a consumer inquiry that does not count against the credit score,” as recited in claim 26. The Office Action stated Lent discloses an inquiry that is a consumer inquiry. Assignee disagrees. Lent discloses an inquiry from an underwriter to determine whether to grant a consumer credit. *See* Lent, Column 4, lines 1-37. Underwriters are merchants that provide credit to consumer. Inquiries from underwriters are merchant inquiries that can, in larger numbers, affect the credit score of the consumer. Accordingly, Lent fails to disclose or suggest claim 26.

The Office Action also stated Duhon (at column 4, lines 22-34) discloses that a consumer can log directly into the on-line consumer credit reporting system. Assignee has reviewed the portion of Duhon cited and disagrees that it discloses that a consumer can log directly into the on-line consumer credit reporting system. Duhon discloses online customers, such as clients and online credit data providers, but not consumers. *See id.* Duhon relates to providing historical data of a consumer to merchants who can then determine the credit worthiness of the consumer. *See* Abstract. Allowing consumers to log-in to the system to determine their credit worthiness and determining whether to grant themselves credit is nonsensical. Accordingly, Duhon fails to disclose or suggest claim 26 as well. Allowance of claim 26 is requested.

The Office Action took Official Notice that “consumer inquiries not counting against a consumer’s credit score is old and well known in the art.” *See* Office Action, page 8. Assignee respectfully disagrees and requests that the Office Action provide evidence, pursuant to MPEP § 707.07(d), that consumer inquiries not counting against a consumer’s credit score is “old and well known in the art” so that any rejection is clearly articulated to provide the Assignee with the opportunity to provide evidence of

patentability or otherwise reply completely at the earliest opportunity. *See* 35 U.S.C. § 132.

Moreover, the Office Action misinterprets Duhon and CCM by stating they “both teach credit inquiries for the purpose of assessing credit status and not for the purpose of a credit application and thus are the types of credit inquiries that do not count against the consumer’s credit score.” *See* Office Action, page 8. CCM fails to disclose any credit inquiries, much less a consumer inquiry that does not count against the credit score. CCM discloses informing users about how to receive a free credit report annually, but does not perform an inquiry. *See* CCM, ¶ 3. Moreover, the purpose of the system in Duhon is to provide credit grantors with historical information about consumers so they can determine the credit worthiness of a consumer and whether to offer credit. *See, e.g.*, Duhon at Abstract, Column 1, lines 17-24; Column 10, lines 22-46. Inquiries from credit grantors are not consumer inquiries that do not count against the consumer’s credit score. Since the combination of references fails to disclose or suggest each element recited in claim 26, withdrawal of the rejection and allowance of claim 26 is requested.

IV. New Claim 28

Assignee has provided new claim 28 that depends from and further limits claim 6. Reasons for allowance for claim 6 are provided above. For at least those same reasons, Assignee kindly requests allowance of claim 28.

CONCLUSION

Claims 1-4, 6, 23, 26, and 28 are pending in the application. The Office Action rejections are believed to be traversed by the present amendment and response. Claims 1-4, 6, 23, 26, and 28 should now be in condition for allowance. The Examiner is invited and encouraged to contact the undersigned attorney of record at (404) 745-2520 if such contact will facilitate a Notice of Allowance for claims 1-4, 6, 23, 26, and 28. If any additional fees are due, the Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, to Deposit Account No. 11-0855.

Respectfully submitted,
/Jason D. Gardner 58180/
Jason D. Gardner
Reg. No. 58180
Attorney for the Assignee

DATE: July 31, 2008

KILPATRICK STOCKTON LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia, 30309-4530
404 745-2520 (direct)
404 541 4619 (direct fax)